

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(TESTAMENTARY AND INTESTATE JURISDICTION)

FRIDAY, THE 21ST DAY OF JULY 2017

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

O.P.No.120 of 2017

In the matter of Indian
Succession Act XXXIX of 1925

and

In the matter of the Last Will
and Testament of
Mr.E.Govindarajulu (deceased)

Mrs.E.Rajamma,
W/o.Late E.Govindarajulu,
New No.6, Second Street,
Ganesh Nagar,
Adambakkam,
Chennai-600 088.

...Petitioner

-vs-

1.Mr.E.Rajkumar,
S/o.Late E.Govindarajulu,
New No.6, Second Street,
Ganesh Nagar,
Adambakkam,
Chennai-600 088.

2.Mr.E.Srinivasan,
S/o.Late E.Govindarajulu,
New No.6, Second Street,
Ganesh Nagar,
Adambakkam,
Chennai-600 088.

...Respondents

Original Petition praying that this Hon'ble Court be
pleased to that she may be allowed to prove the Will in
common form and that probate thereof have effect limited to
the State of Tamil Nadu may be granted to her.

This Original Petition coming on this day before this court for hearing the court made the following order:

This petition has been filed under Section 222 and 276 of Indian Succession Act XXXIX of 1925 read with Order XXV Rule 4 of the Original Side Rules, High Court, Madras, for the grant of Probate in respect of the last Will and Testament of the deceased E.Govindarajulu.

2. In the petition, it is stated that the deceased E.Govindarajulu was ordinarily residing at New No.6, Sencond Street, Ganesh Nagar, Adambakkam, Chennai - 600 088. The deceased died on 13.02.2016 at Hariharan Hospital Nanganallur, Chennai - 600 061. The deceased executed a Will dated 28.05.2007 bequeathing his self acquired property subject to the petitioner herein absolutely with full power of alienation and also named the petitioner as the sole executor of the said Will. The amount of assets which are likely to come into the petitioner's hands does not exceed in aggregate in a sum of Rs.10,00,000/- and the net assets after deducting all the items which the petitioner by law is allowed to deduct is Rs.9,99,000/-. Except the petitioner and respondents there is no next of kin.

3. The petitioner undertakes to duly administer the properties and credits of the deceased E.Govindarajulu and

in any way concerning his Will by paying first his debts and then the legacies therein bequeathed so far as the assets Will extend and to make full and true inventory thereof and exhibit the same in this Court within six months from the date of grant of probate to the petitioner and also to render to this Court a true account of the said properties and credits within one year from the said date. No application has been made to any district court or delegate or to any other court for the probate of any Will of the said deceased or Letters of Administration with or without Will annexed of his properties and creditors.

4. The petitioner examined herself as P.W.1 and she had narrated the averments made in the petition stating that the petitioner has filed this petition for the grant of probate in her favour in respect of the Last Will and Testament executed by the testator on 28.05.2007. The petitioner marked the documents Viz., Exs.P1 to P11.

i.Ex.P1 is the computer generated death certificate of her husband E.Govindarajulu, who died on 13.02.2016.

ii.Ex.P2 is the original registered will dated 28.05.2007 executed by her husband E.Govindarajulu, which was registered as document No.27 of 2007 on the file of the Office of the Sub-Registrar, Velachery, which was attested by two attesting witnesses viz., i)K.Ravi and ii)S.Dhanasekaran.

iii.Ex.P3 is photocopy of the legal heirship certificate dated 27.10.2016 in respect of her deceased husband E.Govindarajulu.

iv.Ex.P4 is the photocopy of the sale deed dated

29.01.1972 executed in favour of her deceased husband E.Govindarajulu.

v.Ex.P5 is the photocopy of the property Tax demand Card standing in the name of her deceased husband E.Govindarajulu.

vi.Ex.P6 is the photocopy of the Water and Sewerage Tax-cum charges Card standing in the name of her deceased husband E.Govindarajulu.

Vii.Ex.P7 is the affidavit of assets showing the net value of the property as Rs.9,99,000/-

viii.Ex.P8 is the consent affidavit given by the 1st respondent stating that he has no objection in granting probate in respect of the Will executed by his father E.Govindarajulu.

ix.Ex.P9 is the consent affidavit given by the 2nd respondent stating that he has no objection in granting probate in respect of the Will executed by his father E.Govindarajulu.

x.Ex.P10 is a copy of paper publication effected in one issue of Tamil Daily "Makkal Kural" dated 21.04.2017.

xi.Ex.P11 is a copy of paper publication effected in one issue of English daily "Trinity Mirror" dated 28.04.2017.

5. One of the attestors of the Will, viz., Mr.S.Dhanasekaran, was examined as PW2. In his evidence, PW2 has stated that the testator E.Govindarajulu was his neighbour. The testator executed his last Will and Testament Ex.P2 on 28.05.2007 in his presence and in the presence of other witness Mr.K.Ravi. At the request of the testator, PW2 subscribed his signature as first attesting witness along with Mr.K.Ravi, as the second attesting witness in the presence of the testator. While executing

the Will, the testator was in a sound and disposing state of mind, memory and understanding. Ex.P12 is his affidavit in this regard.

6. The learned counsel for the respondents has submitted that the respondents have no objection for allowing this petition and they have filed consent affidavit to this effect.

7. From the averments made in the petition and the deposition of P.W.1 supported by the documents, it is clear that the petitioner has proved his claim and there is no contra evidence. Hence, I am satisfied that the petitioner is entitled to the relief sought for.

8. The Original Petition is ordered. Grant probate of the Will in respect of the petitioner.

Sd/-C.V.K.J

21.07.2017

//Certified to be a true copy//
Dated this the day of 2017.

EM/04.08.2017

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.